IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 1901 of 1994

DAULAT RAM
V/S
STATE & ORS

Mr. JL PUROHIT & MK GARG, for the appellant / petitioner

Mrs. RR KANWAR, A.G.A., for the respondent

Date of Order : 1.2.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

By this petition, the petitioner seeks to challenge the order Annexure-5 whereby the mutation of the land has been recorded in the name of temple (deity).

The case of the petitioner is that the land was allotted to the petitioner vide Annexure-3, and since then the petitioner is continuing in possession. Thereafter the Government issued circular dt. 13.12.1991, and in accordance there with the mutation has been sanctioned.

Learned counsel referred to Annexures 1 and 2 which contemplated recognition of Khatedari rights, and allotment of land to persons in whose favour village service grants or Maafi grants were made.

In the present case the land was in the Mafi of the temple, and there is nothing to show that the title of the land in the temple which is the perpetual minor was ever divested so as to entitle the petitioner to have the land alloted vide Annexure-3. It is required to be noticed here that there has been rampant tendency of arrogating the land of the deity by the worshipers or persons incharge of the temple or serving the temple by resorting to various subterfuges, and in order to take care of all these things the Government had been issuing circulars from time to time. One such circular is Annexure-4, and even thereafter many more circulars have been issued from time to time directing to reverse the entries in the revenue record, and to record the land in the name of temple itself. In the present case also in the absence of there being anything to show the divestation of title of the temple in the land, no interference is required to be made in mutation Annexure-5.

It is a different story that Annexure-5 otherwise was also appealable which has not been appealed against.

Yet another aspect of the matter is that any interference in Annexure-5, if it is found to be violative on some technicalities here or there, would be resulting into restoration of illegality of allowing the petitioner to retain the land of the temple for which purpose 226 jurisdiction cannot be invoked.

Thus, taken from any stand point, I do not find any sufficient ground to interfere with Annexure-5.

The writ petition is, therefore, dismissed.

(N P GUPTA),J.

/Sushil/